

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	PRELIMINARY ORDER OF
- v. -	:	FORFEITURE/
	:	<u>MONEY JUDGMENT</u>
NEIL COLE,	:	
	:	19 Cr. 869 (ER)
Defendant.	:	
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WHEREAS, on or about December 4, 2019, Neil Cole (the “Defendant”), was charged in an Indictment, 19 Cr. 869 (ER) (the “Indictment”), with conspiracy to commit securities fraud, make false filings with the SEC, and improperly influence the conduct of audits, in violation of Title 18, United States Code, Section 371 (Count One); one count of securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 244.100(b) (Count Two); six counts of making false filings with the SEC, in violation of Title 15, United States Code, Sections 78m(a) and 78ff, and Title 17, Code of Federal Regulations, Section 240.12b-20, 240.13, 240.13a-13, and 244.100(b) (Counts Three through Eight); one count of improperly influencing the conduct of audits, in violation of Title 15, United States Code, Sections 7202, 7242 and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2 (Count Nine); and one count of conspiracy to destroy, alter, and falsify records in federal investigations, in violation of Title 18, United States Code, Section 371 (Count Ten);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One through Nine of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of all property, real and personal, that constitutes or is derived from proceeds traceable to the

commission of the offenses charged in Counts One through Nine of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts Two through Nine of the Indictment that the Defendant personally obtained;

WHEREAS, on or about November 1, 2021, the Defendant was acquitted following a jury trial, of Counts One and Ten of the Indictment;

WHEREAS, on or about November 28, 2022, the Defendant was found guilty following a jury trial, of Counts Two through Nine of the Indictment;

WHEREAS, the Government asserts that \$790,200 in United States currency represents any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts Two through Nine of the Indictment that the Defendant personally obtained,

WHEREAS, the Government seeks a money judgment in the amount of \$790,200 in United States currency representing the amount of proceeds traceable to the offenses charged in Counts Two through Nine of the Indictment that the Defendant personally obtained; and

WHEREAS, the Court finds that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Counts Two through Nine of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

NOW IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. As a result of the offenses charged in Counts Two through Nine of the Indictment, to which the Defendant was found guilty following a jury trial, a money judgment in the amount of \$790,200 in United States currency (the "Money Judgment"), representing the

amount of proceeds traceable to the offenses charged in Counts Two through Nine of the Indictment that the Defendant personally obtained, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, Neil Cole, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Tara LaMorte, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

Dated: New York, New York
October 10, 2023

SO ORDERED:

A handwritten signature in black ink, appearing to be 'ER' followed by a stylized flourish.

THE HONORABLE EDGARDO RAMOS
UNITED STATES DISTRICT JUDGE